peculiarly fitted for such a labor, did not, in the pursuit of this discussion, make use of parallel columns. These subjects are those regarding which the common law attorney is most likely to require information, and had this book laid down the Common Law on these subjects, point by point, and beside it placed the Civil Law on the same subject, point by point, and supplemented these comparisons by notes showing the importance of the differences, it would have rendered a very valuable service to the profession. As it is, the differences are in some cases pointed out, in others left to be discovered by the reader. Only a few of the many that are suggestive and important can be remarked upon here. A contract is called by its proper name, to wit, a conventional obligation; an offer and acceptance, both duly communicated, are essential in both systems. At Common Law a gratuitous contract must be under seal, while at Civil Law a donation *inter vivos* must be by notarial act. In England the doctrine of consideration arose gradually and silently, and continued to grow, though repudiated by Lord Mansfield; while in Louisiana, though the Code of 1808 did not consider a consideration necessary to support a parol promise, and Eustis, C. J., expressly repudiated the doctrine of consideration, it is still a healthy, hearty doctrine at present. Minors and infants are both without capacity to contract at Civil Law, but minors have the advantage over infants in that they can rid themselves of this disability in some cases by what is called emancipation. Duress of goods is expressly recognized as vitiating consent in Louisiana, a rule which does not seem to obtain at Common Law. (Anson, Contracts, 214.) Under Descent and Distribution or "Succession," attention is called to the fact that in both systems of law an intestate succession falls to the descendants, or, in default of them, to the ascendants, or collaterals, in substantial accordance with the rule laid down by Justinian. But the Civil Law limits the power of the testator by providing that a man leaving three or more children can dispose of only one-third of his estate. This provision, if enforced in the common law states, would in large measure prevent the amassing of colossal fortunes in the hands of a few by compelling their distribution at the passing away of each generation.

These differences and the differences between prescription and the statute of limitations; the law of Privileges; the conception of a partnership as an entity; the absence of distinctions between realty and personalty in Descent and Distribution; the differences in the law of Mortgages, and the radically different land tenure; the theory of immovables by destination, and the prohibition against trust estates, while they are in some cases referred to, are not collated and presented in concise form readily accessible for future use. In this respect the author has wasted an opportunity. For practical utility, therefore, the value of the book is small. It is a book of a student and not of a practitioner. Yet in that very fact lies much of its charm. The style is quiet and uninterrupted by lists of cases stabbed into the text in support of each proposition. The book is an essay breathing the calm of the library on a still night rather than a brief or a text-book exhaling the bustle of the office. J. B. M.

CENTRALIZATION AND THE LAW. SCIENTIFIC LEGAL EDUCATION. An Illustration. With an Introduction by Melville M. Bigelow. Boston. Little, Brown and Company. 1906. pp. xvii, 296. 8vo.

This book is a mosaic; composed principally of lectures recently delivered at the Boston University Law School by Messrs. Brooks Adams, Melville M. Bigelow, Edward A. Harriman, and Henry S. Haines. By far the larger part is contributed by Mr. Adams and Professor Bigelow. Whether the reader adopts or rejects the final conclusions of the writers, he must admit that their discussions are, as Sir Henry Maine said of the Analytical Jurists, useful "for the purpose of clearing the head." They present important issues with great distinctness. Unique, radical, stimulating, — these are terms which may well be applied to large portions of this book.

The main features of the book are clearly and forcibly outlined by Professor Bigelow in the Preface and Introduction:

"These lectures turn on three words, Equality, Inequality, and Administration; the first as the dominant force in American life during the late 'classical' period of the law; the second as representing the present condition of society; the third as the supreme aim of legal and of all education intended to fit men to engage in the affairs of the day.

". . . law is the expression, more or less deflected by opposition, of the dominant force in society. . . . It follows from the view that law is the resultant of actual, conflicting forces in society, that the notion of abstract, eternal principles as a governing power, with their author the external sovereign, must go. . . .

"Inequality appears in two aspects, namely, between capital and the public, and between capital and labor." While there is a "growing conception of the public as a distinct entity having rights," yet the public, as standing for equality, is at a great disadvantage in fighting the capitalist. The weapons furnished by the old legal doctrines are "powerless" "against the skilful equipment of inequality." The existing law has been largely made for us "by other men, living under conditions differing from those under which we live." The law "is handicapped in all its branches with historical survivals."

In the second aspect of inequality, presented by capital and labor, "the latter as well as the former in combinations is in effect an agency in monopoly. . . . Here is inequality against inequality."

In Herbert Paul's recent biography of Froude, it is said that the historian's besetting sin was a love of paradox. Mr. Brooks Adams may, perhaps, be accused of an occasional tendency to extravagance in statement. But that his essays are readable no one can question.

While not disputing the familiar saying that the movement hitherto has been "from *status* to contract," Mr. Adams thinks we are now witnessing "the passage from contract to servitude." Some of his views may be summarized as follows, mostly in his own words:

Society broke with its past by the introduction of steam. Within seventy-five years social conditions have changed more profoundly than they had done before since civilization emerged from barbarism. There must be a corresponding change in the law. A new civilization has arisen, based on scientific discoveries and undreamed of mechanical processes, which, besides generating the trade union, develop the monopoly. This new birth must be swathed in a new envelop of law. Excessive competition leads to monopoly. Suppose competition be forced to the end, it must result in monopoly by survival. Suppose competition be checked to protect the weak, combination to control prices must result. Two grim alternatives confront us: on the one hand, despotism, either by capitalists or trade unionists; on the other hand, the establishment of State Socialism (or at least State regulation of prices.)

Mr. Adams gives a graphic historical sketch of the decline of feudalism; the rise and decay of the merchants' guilds; and the creation of monopolies, formerly by governmental grants of exclusive privileges, and to-day by combinations of private individuals.

It is possible to gather from Mr. Adams' essays the prediction that all existing legal principles, so called, must be discarded, and an entirely new system evolved to meet the present emergencies. But the calm wisdom of Professor Bigelow rejects this theory. In his view, "No working of the dominant spirit is likely to tear out the inner walls of the law," whatever fate may befall the exterior walls built up by logic. Pp. 200, 201.

There are passages in the essays of both Professor Bigelow and Mr. Adams which might seem to a casual reader to affirm that judges register, and bow to, the decrees of the populace. See pp. 154 and 132. In the Preface, however, Professor Bigelow expressly disclaims the notion that the courts are influenced by the dominant forces consciously or in any objectionable way. No doubt legislation and enlightened public opinion do have an influence on the minds of judges in shaping and reshaping the common law. This is candidly admitted by Lord Hobhouse in his admirable opinion in Smart *v.* Smart, L. R. (1892) App. Cas. 425. But judges who are worthy of their place play an efficient part

as brakes and cog-wheels in delaying the triumph of the latest popular fallacy; and it often happens that, during the delay so occasioned, the bubble is pricked and the danger disappears.

It must not be supposed that the effect of centralization is the only topic discussed in these pages. Professor Bigelow earnestly argues that the education of the lawyer should not be confined to the study of law *stricto sensu*. He believes, and rightly, that a man who knows nothing but law cannot, at the present day, be a successful legal practitioner. (See especially his very forcible remarks, pp. 203–206; and also Professor Harriman's lecture on "Law as an Applied Science," pp. 208–230.)

Furthermore, there are what may be called incidental nuggets of wisdom scattered up and down the pages of this book. See, for instance, Professor Bigelow's extremely valuable observations on the making of definitions (p. 163); and his warning as to the dangers of logic (p. 183). See also Mr. Adams' statement on p. 51: "Perfection in thought consists in the elimination of the immaterial"; and on p. 46 ". . . You can no more reason from highway precedents to railway problems than you can reason from the ox to the electric battery." J. S.

A TREATISE ON THE LAW OF FIXTURES. By Marshall D. Ewell. Second Edition, edited and annotated by Frank Hall Childs. Chicago: Callaghan & Co. 1905. pp. cviii, 784. 8vo.

The first edition of this standard treatise was published in 1876. It might be expected, therefore, that a second edition, published in 1905, would show both a large increase in the amount of material included and a recasting of the treatment of several branches of the subject. As to the first requirement, the new edition leaves little to be desired. The number of cases cited has been more than doubled and now amounts to nearly five thousand. Furthermore, the citations cover a range seldom equalled; many references are given to decisions in Canada, Australia, and other parts of the British Empire, as well as to cases in various minor American courts, such as the lower courts of Pennsylvania and Ohio.

On the other hand, the editor's method of bringing the first edition down to date is hardly to be commended. No changes have been made in the text, other than the omission of a number of passages regarded as obsolete, the editor's additions being wholly in the form of bracketed notes. This arrangement may be justifiable in handling a text which has become in some sense a classic, though it inevitably causes inconvenience; but it cannot well be contended that the first edition of the present work, admirable as it was, had attained such a position as to make improper a revision of the text, especially at a time when the author is still living, and, as shown by the prefatory note, able to supervise the new edition. Moreover, the editor's notes are peculiarly unsatisfactory, in that they consist almost entirely of summaries of recent decisions, in the nature of short headnotes, with little or no independent discussion. The result is better than might be supposed, partly because of the good quality of the original work, and partly because of the comparatively slight changes in the principles of this branch of the law. The recent cases have been so largely devoted to the application of well-established doctrines to new states of fact that a treatment of them necessarily partakes somewhat of the character of a digest. But the arrangement is, at best, confusing, and greatly impairs the utility of the book. This is especially so in topics in the treatment of which the editor has made large additions, such as "Taxation"; here a note of more than seven closely printed pages is attached to a third of a page of text, with no sub-headings or other guides through the wilderness of citations. So, as a note to the proposition that "all fixtures, whether actually or constructively attached to the realty, pass by a conveyance or mortgage of the freehold," there are nearly thirteen pages of undiluted abstracts and citations.

The arrangement is also unfortunate because it results in leaving unchanged several parts of the text which call for revision. These are not many, to be